

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATRICK BRADY,

Plaintiff,

v.

SCOTT JONES, et al.,

Defendants.

No. 2:21-cv-00489 TLN AC

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Currently pending before the court are defendants' motion to compel discovery responses and plaintiff's motion to retake his deposition. ECF Nos. 54-55. The court will address each motion in turn.

This case is proceeding on various First, Sixth and Fourteenth Amendment claims against defendants Jones, Luke, Hampton, Pfau, Saika, and Meeks that arose while plaintiff was housed at the Sacramento County Main Jail. See ECF No. 40 (screening order). A Discovery and Scheduling Order was issued on December 1, 2023 which set the discovery cut-off date as July 1, 2024. ECF No. 50.

**I. Defendants' Motion to Compel**

**A. Background**

Defendants filed a motion to compel responses to their special interrogatories and requests

1 for production of documents on April 1, 2024. ECF No. 54. In their motion to compel,  
2 defendants indicate that they timely served interrogatories and requests for production of  
3 documents on plaintiff on December 18, 2023.<sup>1</sup> ECF No. 54. Plaintiff's responses to the  
4 propounded discovery were due by February 5, 2024. ECF No. 54. However, plaintiff did not  
5 submit any response to defendants' discovery requests. As a result, defendants request that the  
6 court compel plaintiff to answer their interrogatories and requests for production without  
7 objections. ECF No. 54.

8 Plaintiff has not filed an opposition to defendants' motion to compel and the time for  
9 doing so has expired.

10 2. Discussion

11 Based on plaintiff's complete failure to respond to defendants' discovery requests, the  
12 court will grant the motion to compel. Plaintiff initiated this lawsuit and he is obligated to  
13 comply with the applicable Federal Rules of Civil Procedure and Local Rules of this court by  
14 responding to defendant's discovery requests to the best of his ability. See Hartline v. Nat'l  
15 Univ., No. 2:14-cv-00635 KJM AC, 2018 WL 1014611, at \*4 (E.D. Cal. Feb. 22, 2018)  
16 (emphasizing that even pro se parties have a duty to comply with discovery obligations).  
17 Plaintiff's complete failure to respond to defendant's discovery requests, and his failure to oppose  
18 defendant's motion, mean that he has waived any objections to the discovery requests and will be  
19 ordered to respond. Plaintiff must answer each interrogatory fully in writing under oath. See  
20 Fed. R. Civ. P. 33(b)(3). While extensive research is not required, a reasonable effort to respond  
21 must be made and reasonableness is determined by the size and complexity of the case and the  
22 resources that a responding party has available to put to the case. L.H. v. Schwarzenegger, No.  
23 S-06-2042 LKK GGH, 2007 WL 2781132, \*2 (E.D. Cal. Sept. 21, 2007) (citation omitted).  
24 Plaintiff has not made any effort, much less a reasonable one, to respond to defendants'  
25 interrogatories in this case. In addition, plaintiff must produce all documents in his possession,  
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27 <sup>1</sup> Defendants' request for admissions were automatically deemed admitted pursuant to Rule  
28 36(a)(3) of the Federal Rules of Civil Procedure after plaintiff failed to answer them. As a result,  
the requests for admissions are not a part of defendants' motion to compel.

1 custody or control that are responsive to defendant's request for production of documents. See  
2 Fed. R. Civ. P. 34(a)(1). Defendant may move to dismiss this action pursuant to Rule 41(b) if  
3 plaintiff fails to comply with this order.

4 **II. Plaintiff's Motion to Retake Deposition**

5 Without addressing the pending motion to compel, plaintiff filed a separate motion to  
6 retake his deposition. ECF No. 55. Several weeks later, however, plaintiff, filed a motion to  
7 quash his own motion because he made the necessary corrections to his deposition. ECF No. 58.  
8 The court will construe plaintiff's "motion to quash" as a request to withdraw the motion at ECF  
9 No. 55. So construed, the motion at ECF No. 58 will be granted.

10 **III. Scheduling**

11 In light of plaintiff's total failure to respond to defendant's discovery requests, the court  
12 finds good cause to modify the discovery and scheduling order in this case. Defendants' motion  
13 demonstrates that they have been diligent in seeking the necessary information. Based on good  
14 cause shown, the discovery and dispositive motions deadlines will be extended as indicated  
15 below.

16 **IV. Plain Language Summary for Pro Se Party**

17 The following information is meant to explain this order in plain English and is not  
18 intended as legal advice.

19 Based on your failure to respond to the defendants' discovery requests, the court is  
20 granting defendants' motion to compel. You have 30 days from the date of this order to serve  
21 your responses to defendants' discovery requests which were served on you in December 2023.

22 If you do not provide responses to defendants' discovery requests, you will be subject to  
23 sanctions, including the possible dismissal of this case. The deadlines for filing motions to  
24 compel and dispositive motions in this case are also being extended.

25 **CONCLUSION**

26 Accordingly, IT IS HEREBY ORDERED that:

27 1. Defendants' unopposed motion to compel (ECF No. 54) is granted. Within 30 days  
28 from the date of this order, plaintiff shall serve responses to defendant's Interrogatories, Set One

1 and Request for Production of Documents, Set One, without objections, on defendants' counsel.  
2 Plaintiff is cautioned that failure to comply with this court's order compelling discovery may  
3 result in further sanctions including the dismissal of this case.

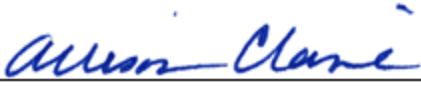
4 2. The Discovery and Scheduling Order is hereby modified to extend the discovery  
5 deadline, including all motions to compel discovery, to **August 26, 2024**. The deadline for filing  
6 dispositive motions is extended to **November 25, 2024**.

7 3. All other provisions of the December 1, 2023 Discovery and Scheduling Order remain  
8 in effect.

9 4. Plaintiff's motion (ECF No. 58) to withdraw his previously filed motion to retake his  
10 deposition is granted.

11 5. Plaintiff's motion to retake his deposition (ECF No. 55) is deemed withdrawn.

12 DATED: June 26, 2024

13   
14 ALLISON CLAIRE  
15 UNITED STATES MAGISTRATE JUDGE  
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